**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 5511 of 2007**

**For Approval and Signature:**

**HONOURABLE MR. JUSTICE B.J.SHETHNA**
**HONOURABLE MR.JUSTICE H.B.ANTANI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**DINESHCHANDRA MODI S/O.NANCHAND MODI & 2 - Petitioner(s)**
**Versus**
**STATE OF GUJARAT & 2 - Respondent(s)**

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**Appearance :**
MR DS NANAVATI FOR NANAVATI & NANAVATI for Petitioner(s) : 1 - 3.
MR KAMAL TRIVEDI, LD. ADVOCATE GENERAL WITH MR. BHATE, A.G.P.for Respondent(s) : 1 - 3
NOTICE SERVED BY DS for Respondent(s) : 1, 3,
MR ND NANAVATI for MR MAOUSAM YAGNIK for NANAVATY ADVOCATES for Respondent(s) : 2,

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**CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA**

**and**

**HONOURABLE MR.JUSTICE H.B.ANTANI**

**Date : 23/03/2007**

**ORAL JUDGMENT**

**(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)**

Rule. Learned AGP Shri Bhate waives service of

Rule for Respondent Nos.1 & 3, Shri Mousam Yagnik appears and waives service for the respondent No.2-Club.

Petitioners are residing nearby the respondent No.2 – Club. They are facing acute problems due to erratic parking made by the members and visitors of the respondent No.2 – Club. Therefore, in the nature of Public Interest Litigation this petition is filed with a prayer that the respondent No.1 – State of Gujarat and respondent No.3 – Commissioner of Police, Ahmedabad, be directed to issue necessary direction to the respondent No.2 – Karnavati Club Ltd. for providing necessary traffic parking arrangement in this premises to avoid vehicular traffic congestion on the service road of Gandhinagar – Sarkhej Road near the club premises.

In response to the Notice issued by this Court the respondent No.2 – Club, appeared through their learned Senior Advocate Shri N.D. Nanavati, and on its behalf Shri Himanshi K. Trivedi has filed Reply Affidavit wherein it is stated that :-

1. “...the respondent No.2 has addressed itself to the problem faced on account of parking of cars leading to traffic congestion and with a view to provide immediate relief to the said problem, the respondent No.2 has already started making provision for parking of at least 350 cars in the first phase and 200 cars in the second phase.
2. “...the respondent No.2 is in the process of having a start-of-the-art covered parking

facility, a conventional hall and for that purpose plans seeking approval of the construction commenced are already submitted to the AUDA. The same is awaiting approval";

3. "...the respondent No.2 undertakes to carry out the construction as aforesaid within a period of three months from today in accordance with the existing GDCR and building bye-laws. He also undertake to pay necessary charges such as scrutiny fee for approval of the plan or any other charges due and payable under the law including such other charges as may be demanded by AUDA and/or any other authority in accordance with law;"
4. "...There are some issues as regards the nature of the land pending before different authorities and the respondent No.2 has also taken necessary steps for rectification of such issues and is willing to abide by the terms and conditions of any order levying necessary charges and undertake to pay the same immediately on demand by such authority."
5. "...till the above mentioned project of providing parking is completed and put in use, sufficient security personnel would be deployed to avoid any traffic congestion and to see that parking is done in an organized manner and for the purpose, the respondent No.2 also undertakes to solicit the co-operation of the traffic police by making payment of charge for deployment of traffic personnel in accordance

with the applicable rules."

6. "...When the respondent No.2 has addressed itself to the above mentioned problem noticed and has started making provision to solve the problem, certain disgruntled elements who are politically motivated have started creating problems and it is reasonably and bona fide believed on account thereof necessary sanctions are not forthcoming.

7. "...That in the compound of the respondent No.2 club every available space is already earmarked and used for the purpose of orderly parking."

In view of the above, nothing more is required to be stated by this court except that the concerned Authorities shall see to it that some disgruntled elements, politically motivated, while solving problems may not succeed. Learned Advocate General Shri Kamal Trivedi, appearing with learned AGP Shri Bhate rightly submitted that police and other Authorities shall take care of such elements and they will extend their full support to solve acute traffic problems faced by the people residing near the respondent No.2-club.

It is made clear that any breach of the undertaking given to this court on oath be viewed seriously. It is hope and trust that the club will complete the project within three months from today as assured in the Reply affidavit.

Accordingly, Rule is made absolute. No order as to costs.

(B.J.SHETHNA,J.)

(H.B.ANTANI, J.)

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